



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

## REGION 8

2005 SEP 27 AM 11:07

**999 18<sup>TH</sup> STREET- SUITE 300**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

FILED  
EPA REGION VIII  
HEARING CLERK

**DOCKET NO.: CWA-08-2005-0055**

IN THE MATTER OF:

**TESORO HIGH PLAINS PIPELINE CO.**

1225 17<sup>th</sup> Street, Suite 1800

Denver, CO 80202

RESPONDENT

## FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

September 27, 2005  
DATE

DATE \_\_\_\_\_

*ALVORD*

Alfred C. Smith  
Regional Judicial Officer

2005 SEP 27 AM 11:07

Docket No. CWA-08-2005-0055

# CONSENT AGREEMENT

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EPA REGION VIII  
HEADING CLERK

2. EPA and the Respondent (collectively referred to as the "Parties")

3. EPA is authorized to issue civil administrative actions and assess civil penalties for violations of section 311(b)(3) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(3), as amended by the Oil Pollution Act Amendments of 1990, pursuant to section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii).

4. Respondent is a direct and wholly-owned subsidiary of Tesoro Corporation.

Tesoro Pipeline-Administrative Consent Agreement  
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State of North Dakota.

5. Respondent is a "person" within the meaning of sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and an "owner or operator" of an "onshore facility" within the meaning of section 311(a)(6) and (10) of the CWA, 33 U.S.C. §§ 1321(a)(6) and (10), and 40 C.F.R. § 112.2.

6. On June 8, 2004, Respondent discovered a discharge of approximately 400 barrels (16,800 gallons) of crude oil from a 16-inch section of pipeline owned and/or operated by Respondent into or upon navigable waters of the United States or adjoining shorelines in alleged violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

7. On March 21, 2005, EPA issued Respondent a pre-filing opportunity to confer letter regarding the spill event, wherein EPA proposed a civil penalty for the alleged violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

8. Respondent admits the jurisdictional allegations of the Consent Agreement.

9. Respondent neither admits nor denies the facts specified in the letter of March 21, 2005.

10. Respondent waives its right to a hearing before any tribunal to contest any issue of law or fact set forth in this Consent Agreement.

11. This Consent Agreement contains all terms of the settlement agreed to by the Parties. Upon incorporation into a final order, this Consent Agreement applies to and is binding upon Complainant and Respondent, Respondent's officers, directors, employees, agents and all persons acting under or for Respondent, until such time as the civil penalty required under

paragraph 14 has been paid. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

12. Respondent's pipeline is in current compliance with the Act.

13. Pursuant to section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), EPA determined that an appropriate civil penalty to settle this action is in the amount of Ninety Four Thousand Five Hundred Dollars (\$94,500) after considering the seriousness of the violations, the economic benefit to Respondent, the degree of culpability, any other penalty for the same incident, any prior history, Respondent's efforts to mitigate the effects of a discharge, the economic impact of the penalty on Respondent, and any other matters as justice may require.

14. Respondent consents and agrees to pay the amount of Ninety Four Thousand Five Hundred Dollars (\$94,500) to resolve this matter.

#### **TERMS OF SETTLEMENT**

15. Without any admission or adjudication of any issue of fact or conclusion of law, Respondent consents to the issuance of the Consent Agreement and, for the purposes of settlement, to the payment of the above-cited civil penalty.

16. Respondent consents and agrees to pay the above-stated amount by remitting a corporate, cashier's or certified check, payable to the order of the "Oil Spill Liability Trust Fund," within thirty (30) days of the effective date of this Consent Agreement to:

Jane Nakad  
Technical Enforcement Program (8ENF-UFO)  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

The check shall reference the Respondent's name and address, and the EPA docket number of this action.

17. Respondent agrees to mail a copy of the check simultaneously to the following:

Tina Artemis, Regional Hearing Clerk  
U.S. EPA Region 8 (8RC)  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

Amy Swanson, Enforcement Attorney  
U.S. EPA Region 8 (8ENF-L)  
999 18th Street, Suite 300  
Denver, CO 80202-2466

18. Respondent agrees and consents that if it fails to pay the penalty amount within thirty (30) days of receipt of the final order, interest on the penalty amount shall accrue from the date of the order at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C.

§ 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days of the due date of the final order.

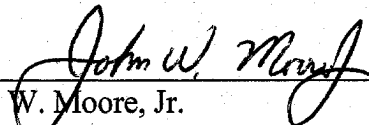
19. The penalty specified in paragraph 14 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

## **GENERAL PROVISIONS**

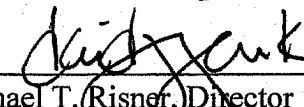
20. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the Act and its implementing regulations.
21. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach and may result in referral of the matter to the Department of Justice for enforcement of this Consent Agreement and for such other relief as may be appropriate.
22. Nothing in this Consent Agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted if Respondent fails to perform pursuant to the terms of this Consent Agreement.
23. Respondent's undersigned representative certifies that he or she is fully authorized to enter into the terms and conditions for this Consent Agreement and to bind the party he or she represents to the terms and conditions of this Consent Agreement.
24. The Parties agree to bear their own costs and attorneys fees in connection with this matter.
25. The Parties agree to forward this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a final order.
26. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and upon full payment of the penalty by the Respondent, shall constitute a complete and full settlement of the specific violation alleged herein.

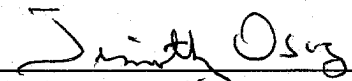
**SO CONSENTED AND AGREED TO:**

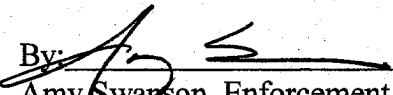
**TESORO HIGH PLAINS PIPELINE COMPANY**  
Respondent.

Date: SEPTEMBER 15, 2005 By:  DH  
John W. Moore, Jr.  
Vice President, Pipelines and Terminals

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**  
Complainant.

Date: 20 September 05 By:   
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 9/20/05 By:   
Elisabeth Evans, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 9/20/2005 By:   
Amy Swanson, Enforcement Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **TESORO HIGH PLAINS PIPELINE COMPANY, DOCKET NO.: CWA-08-2005-0055** was filed with the Regional Hearing Clerk on September 27, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Amy Swanson, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on September 27, 2005, to:

D. Jeffrey Haffner, Senior Attorney  
Tesoro Petroleum Companies, Inc.  
300 Concord Plaza Drive  
San Antonio, TX 78216-6999


Bernardette M. Frich  
Manager, Environmental, Compliance and Training  
Tesoro Refining and Marketing Co.  
Pipelines and Terminal Division  
1225 17<sup>th</sup> Street, Suite 1800  
Denver, CO 80202

John W. Moore, Vice President  
Tesoro Refining and Marketing Co.  
Pipelines and Terminal Division  
1225 17<sup>th</sup> Street, Suite 1800  
Denver, CO 80202

And

Commander  
Finance Center (OGR)  
U. S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

September 27, 2005

  
Tina Artemis  
Regional Hearing Clerk



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